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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1065

OIL WORKERS INTERNATIONAL UNION, LOCAL 463 et al.,
Petitioner and
Appellant below,

vs.

TEXOMA NATURAL GAS COMPANY,
Respondent and
Appellee below

PETITION FOR REHEARING ON PETITION FOR WRIT OF CERTIORARI

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PETITION FOR REHEARING ON PETITION FOR FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT

To the Honorable Harlan F. Stone, Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Your petitioner respectfully shows:

I

That the petition for writ of certiorari in the above styled and numbered case was denied by your Honorable Court on April 9, 1945, and that petitioner files

this petition for rehearing and reconsideration thereon pursuant to Rules 33 and 44 of the Revised Rules of the Court.

II

The denial of the writ leaves unsettled four important questions of law wherein separate circuit courts of appeals have rendered conflicting decisions on the same matters.

III

The denial of the writ leaves unsettled an important question of federal law which has not been, but should be, settled by this court and permits a decision of the circuit court of appeals to stand which sanctions a departure by a lower court from the accepted and usual course of judicial proceedings such as to call for an exercise of this court's power of supervision, particularly;

> By holding, in a labor dispute case, that the exhaustion of the administrative remedies granted by the War Labor Disputes Act and Executive Order No. 9017 of January 12, 1942, to employers and employees, *is not a prerequisite* to the bringing of a court action for relief, and by holding that a "justiciable controversy" existed between the parties appropriate for relief under the Declaratory Judgment Act. And more particularly, should this court exercise its supervision over the foregoing holding, because of the following Congressional Declaration of Public Policy in Labor matters (Title 29, United States Code, not heretofore cited in the petition), to-wit;

Paragraph 102—*Public Policy in Labor Matters Declared*

In the interpretation of Sections 101-115 of this title and in determining the jurisdiction and authority of the Courts of the United States, as such jurisdiction and authority are defined and limited in such Sections, the public policy of the United States is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definitions of and limitations upon the jurisdiction and authority of the courts of the United States are hereby enacted. Mar. 23, 1932, c. 90, Paragraph 2, 47 Stat. 70.

Paragraph 108 — *Noncompliance with Obligations Involved in Labor Disputes or Failure to Settle by Negotiation or Arbitration as Preventing Injunctive Relief*

> No restraining order or injunctive relief shall be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor disputes in question, or who has failed to make every reasonable effort to settle such dispute either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration. Mar. 23, 1932, c. 90, Paragraph 8, 47 Stat. 72.

IV

Wherefore, petitioner prays that your Honorable Court reconsider its petition for writ of certiorari heretofore filed and that upon rehearing thereof said writ be issued as prayed for.

This petition is presented in good faith and is not for the purpose of delay.

Respectfully submitted,

LINDSAY P. WALDEN
Counsel for Petitioner